

COURT FILE NUMBER 1901-02578

COURT COURT OF QUEEN'S BENCH OF ALBERTA

JUDICIAL CENTRE CALGARY

APPLICANTS IN THE MATTER OF THE COMPANIES' CREDITORS
ARRANGEMENT ACT, R.S.C. 1985, c. C-36, as amended

 IN THE MATTER OF THE BUSINESS CORPORATIONS ACT,
R.S.A. 2000, c. B-9, as amended

 AND IN THE MATTER OF THE PLAN OF COMPROMISE OR
ARRANGEMENT OF ELCANO EXPLORATION INC.,
ELCANO EXPLORATION LTD. and ELCANO EXPLORATION
PARTNERSHIP

DOCUMENT **THIRD REPORT OF HARDIE & KELLY INC.,
IN ITS CAPACITY AS MONITOR OF ELCANO
EXPLORATION INC., ELCANO EXPLORATION LTD. and
ELCANO ENERGY PARTNERSHIP**

JULY 2, 2019

ADDRESS FOR SERVICE **MONITOR**
AND CONTACT Hardie & Kelly Inc.
INFORMATION OF PARTY 110, 5800 – 2nd Street SW
FILING THIS DOCUMENT Calgary, AB T2H 0H2

 Attention: Marc Kelly
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**THIRD REPORT OF THE MONITOR
HARDIE & KELLY INC.
JULY 2, 2019**

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INTRODUCTION

1. On February 25, 2019, Elcano Exploration Inc. (“**E EI**”) and Elcano Exploration Ltd. (“**E EL**”) (collectively referred to as the “**Applicants**”) made an application to the Court of Queen’s Bench of Alberta (the “**Court**”) for an order granting an initial stay of proceedings against the Applicants until March 26, 2019 pursuant to the *Companies Creditors Arrangement Act*, R.S.C. 1985 c. C-36, as amended (the “**CCAA**”).
2. On February 26, 2019 (the “**Filing Date**”), a *CCAA Initial Order and SISP Approval Order* (the “**Initial Order**”) was granted by the Honourable Madam Justice K.M. Horner of the Court providing certain relief to EEI and EEL, as well as to the Elcano Energy Partnership (collectively referred to as the “**Elcano Group**” or the “**Company**”), including, but not limited to, the imposition of an initial stay of proceedings (the “**Stay**”) against the Elcano Group and its assets through to March 28, 2019.
3. The Court appointed Hardie & Kelly Inc. (“**H&K**”) as monitor (the “**Monitor**”) of the Elcano Group within CCAA proceedings (the “**CCAA Proceedings**”).
4. On March 18, 2019, the Court granted an Order further extending the Stay until June 14, 2019.
5. On May 31, 2019, the Monitor prepared a report for this Honourable Court (the “**Second Report**”) in advance of the Elcano Group’s June 7, 2019 application seeking:
 - a. A further extension of the Stay;
 - b. Approval to make principal repayments to its secured lender, National Bank of Canada (“**NBC**”);
 - c. An increase in the Administration Charge granted pursuant to the Initial Order from \$100,000 to \$400,000; and

- d. Authorization to file the *Plan of Compromise and Arrangement* dated May 31, 2019 (the “**Plan**”) and to hold a meeting of creditors and establish the procedures associated therewith in order for creditors to consider and vote on the Plan.
6. On June 7, 2019, the Court granted two orders (the “**June 7th Orders**”):
 - a. Further extending the Stay through to July 11, 2019, authorizing two principal payments to NBC totalling \$750,000 (the “**NBC Payments**”) and increasing the Administration Charge to \$400,000 (the “**Order re: Stay Extension and Amendment of Initial Order**”); and
 - b. Authorizing the filing of the Plan and establishing the meeting of creditors (the “**Creditors’ Meeting**”) and the terms thereof (the “**Meeting Order**”).
 7. The purpose of this report (the “**Third Report**”) is to provide this Honourable Court with:
 - a. An update as the steps taken pursuant to the June 7th Orders;
 - b. The results of the Creditors’ Meeting; and
 - c. An update as to the status of the Claims Procedure.

TERMS OF REFERENCE

8. All monetary amounts noted herein are expressed in Canadian dollars.

JUNE 7th ORDERS

9. Elcano made the NBC Payments in accordance with the terms of the Order re: Stay Extension and Amendment of Initial Order.
10. The Company filed the Plan with this Honourable Court on June 11, 2019.
11. In accordance with the terms of the Meeting Order, on June 11, 2019, the Monitor caused the Affected Creditor Meeting Materials (as defined in the Meeting Order) to be mailed to the Affected Creditors (as defined in the Plan).
12. The Monitor also caused the Affected Creditor Meeting Materials to be posted on the Monitor’s website.

CREDITORS' MEETING

13. The Creditors' Meeting to consider the Plan was held on July 2, 2019.
14. In accordance with the terms of the Meeting Order, Marc Kelly, a representative of the Monitor, served as Chairman of the Creditors' Meeting.
15. At the Creditors' Meeting, the statutory majority of Affected Creditors voting on the Plan unanimously voted in favour of a resolution approving the Plan and the consideration being offered to the Affected Creditors. A summary of the results of the vote is as follows:

	<u>Number of Votes</u>	<u>%</u>	<u>Dollar Value</u>	<u>%</u>
For	150	100.0	\$ 2,693,273.86	100.0
Against	0	-	-	-
Total	150	100.0	\$ 2,693,273.86	100.0

16. A copy of the Minutes of the Creditors' Meeting is attached as **Appendix "A"** to this Third Report.
17. As discussed in greater detail below, the claim of Torc Oil & Gas ("**Torc**") in the amount of \$29,856.23 remains classified as an Unresolved Claim as provided for by the Claims Procedure Order granted on March 28, 2019. This claim will be resolved in due course; however, Torc voted in favour of the Plan and its vote does not on its own affect the results of the vote one way or the other.

CLAIMS PROCEDURE

18. The Monitor previously advised that as of the date of the Second Report, nine unsecured claims had not yet been resolved pursuant to the terms of the Claims Procedure Order (the "**Unresolved Claims**"). As of the date of this Third Report, eight of these nine claims have now been resolved with the resultant claim amount in each instance being ultimately settled upon in accordance with Elcano's position as had been outlined in Appendix "D" of the Second Report.

19. As set out above, the lone Unresolved Claim is that of Torc. In the Second Report, we advised that Torc filed an unsecured claim in the amount of \$124,517.93 in respect of what the Monitor understood to be the gross amount owed to it by the Elcano Group as a joint venture partner, without taking into account any joint venture billings rendered against Torc by the Elcano Group. The Monitor issued a Notice of Revision and Disallowance disallowing Torc's entire claim as the books and records of the Elcano Group indicate that the net account between it and Torc reflects a balance owed to the Elcano Group from Torc. On May 30, 2019, Torc delivered a Notice of Dispute of Revision or Disallowance of Claim to the Monitor setting out a revised net unsecured claim in the amount of \$29,856.23.
20. Since the date of the Second Report, in accordance with the Claims Procedure Order, Torc filed an application seeking an Order declaring that it has a valid unsecured claim against the Elcano Group in the amount of \$124,661.07. However, the Monitor understands that the net amount in fact claimed by Torc remains \$29,856.23 (the "**Net Torc Claim**"). Consequently, and in accordance with the manner in which Disputed Claims are dealt with in the Plan, the Elcano Group intends to pay to its legal counsel in trust, the amount of the initial cash distribution contemplated by the Plan calculated based on the Net Torc Claim, to be held until such time as the Net Torc Claim is resolved by the parties or by Court order.
21. As set out in detail in the June 24, 2019 Affidavit No. 4 of Richard Fulton (the "**Fourth Fulton Affidavit**"), subsequent to the Elcano Group and the Monitor administering the Claims Procedure, the Elcano Group received additional information regarding 12 claims submitted in the Claims Procedure which allowed the Elcano Group to more accurately determine the existence and quantum of such claims. Based on this additional information, the Elcano Group prepared a table of proposed rectified claims as detailed in Exhibit "1" of the Fourth Fulton Affidavit.

22. The net effect of this additional information reduced the number of Affected Creditors by two, and increased the aggregate amount of the Affected Claims by \$6,072.18.
23. The Monitor has reviewed the basis for the contemplated rectification of the 12 claims as proposed by the Elcano Group and is in supportive of the proposed rectifications.

RECOMMENDATIONS

24. The Monitor recommends that this Honourable Court Sanction the Plan for the following reasons:
 - The Monitor is of the view that the Plan is fair and reasonable in the circumstances and remains supportive of the Plan for the reasons as detailed in the Second Report; and
 - The Affected Creditors voting on the Plan unanimously approved the Plan.
25. The Monitor also recommends that the Court approve the rectification of the 12 claims as proposed by the Elcano Group.

All of which is respectfully submitted this 2nd day of July, 2019.

Hardie & Kelly Inc.,
in its capacity as the Monitor of the Elcano Group
and not in its personal or corporate capacity



Per: Marc Kelly
Senior Vice President

APPENDIX “A”

**IN THE MATTER OF THE COMPANIES' CREDITORS ARRANGEMENT ACT, R.S.C.
1985, c. C-36, as amended**

**IN THE MATTER OF THE BUSINESS CORPORATIONS ACT,
R.S.A. 2000, c. B-9, as amended**

**AND IN THE MATTER OF THE PLAN OF COMPROMISE OR ARRANGEMENT OF
ELCANO EXPLORATION INC., ELCANO EXPLORATION LTD. and ELCANO
EXPLORATION PARTNERSHIP (collectively referred to as "Elcano")**

MINUTES OF THE MEETING OF CREDITORS

DATE: July 2, 2019 at 10:00 a.m.

HELD AT: Bennett Jones LLP
4500, 855 – 2nd Street SW
Calgary, AB T2P 4K7

Chairman: Marc Kelly, Hardie & Kelly Inc.

Present: See attached attendance list

INTRODUCTION

The Chairman called the meeting to order at 10:00 a.m.

The Chairman informed all those in attendance of the following:

- That the purpose of the meeting is to consider Elcano's *Plan of Compromise and Arrangement* dated May 31, 2019 (the "Plan").
- That a quorum, being one creditor entitled to vote, was present. Mr. Kelly advised that he holds proxies for 42 creditors with claims totaling \$2,483,264.37, that he would be voting as directed by those creditors and that all such creditors have directed that their votes be lodged in favour of the Plan.
- Mr. Kelly advised that the Plan provides that all creditors with claims of \$5,000 or less (the "Convenience Class Creditors") are deemed to be present at the meeting and are deemed to be voting in favour of the Plan. Mr. Kelly indicated that there are 108 Convenience Class Creditors with claims totaling \$210,009.49.

SUMMARY OF PLAN

Mr. Kelly reviewed the highlights of the Plan as follows:

- The Plan is being funded by way of a refinancing arrangement entered into between Elcano and Tallinn Capital Energy Limited Partnership by its General Partner Tallinn Capital Energy Corp.;

- The remaining balance of Elcano's existing credit facility with National Bank of Canada will be retired;
- A small deemed trust claim in favour of Canada Revenue Agency of \$33.76 will be paid;
- An initial cash distribution totaling \$1,696,000 (the "Initial Distribution") will be made to the Convenience Class Creditors and each creditor who is not a Convenience Class Creditor (the "Non-Convenience Class Creditors"). All Convenience Class Creditors and Non-Convenience Class Creditors (together referred to as the "Affected Creditors") will receive up to the first \$5,000 of their respective claims. Consequently, the Convenience Class Creditors will all be paid in full from the Initial Distribution. Non-Convenience Class Creditors will receive a cash payment of the first \$5,000 of their respective claims plus a prorated portion of the residual amount of their claims from the Initial Distribution;
- Non-Convenience Class Creditors will also receive a non-interest bearing promissory note (the "Promissory Notes") for the remaining balances of their claims net of the cash distribution they receive from the Initial Distribution;
- The Plan provides that the Promissory Notes are to be satisfied in full by way of a cash payment to be made by Elcano within 18 months; and
- The Plan provides that the total amount of the Promissory Notes issued shall not exceed \$1,754,000. At this time, it appears as though that figure is sufficient to enable Promissory Notes to be issued for the full amounts of the balances of the claims of the Non-Convenience Class Creditors' remaining after accounting for the Initial Distribution.

QUESTION PERIOD

Mr. Kelly opened the floor for questions; however, none was asked.

VOTE

The Chairman advised that in order for the Plan to be approved by the Affected Creditors, a majority in number and 2/3 of the dollar amount of the claims of those Affected Creditors actually voting on the Plan must vote in favour of the Plan.

The Chairman called for a resolution approving the Plan and the consideration being offered to the Affected Creditors substantially as set out in the Plan.

Mr. Kelly moved by way of proxy on behalf of Enmax Energy Corporation ("Enmax") that the Plan and the consideration being offered to the Affected Creditors be approved. Seconded by Marc Kelly by way of proxy on behalf of University of Manitoba ("U of M"). All in favour. None opposed.

The Chairman declared the Plan to be approved by the required statutory majority of the Affected Creditors based on the results as set out below:


	<u>Number of Votes</u>	<u>%</u>	<u>Dollar Value</u>	<u>%</u>
For	150	100.0	\$ 2,693,273.86	100.0
Against	0	-	-	-
Total	150	100.0	\$ 2,693,273.86	100.0

The Chairman advised that the claim of Torc Oil & Gas (Torc") in the amount of \$29,856.23 remains classified as an Unresolved Claim as provided for by the *Claims Procedure Order*. This claim will be resolved in due course; however, Torc voted in favour of the Plan and its vote does not on its own affect the results of the vote one way or the other.

Elcano will now be asking the Court of Queen's Bench of Alberta to sanction the Plan at an application scheduled for 10:00 a.m. on Thursday, July 4, 2019.

ADJOURNMENT

Upon a motion duly made by Mr. Kelly on behalf of Enmax and seconded by Mr. Kelly, on behalf of U of M and being unanimously approved, the Chairman declared the meeting adjourned at 10:05 a.m.



Chairman – Marc Kelly

Attachments: Attendance List

**IN THE MATTER OF THE COMPANIES' CREDITORS ARRANGEMENT ACT,
R.S.C. 1985, c. C-36, as amended**

**IN THE MATTER OF THE BUSINESS CORPORATIONS ACT,
R.S.A. 2000, c. B-9, as amended**

**AND IN THE MATTER OF THE PLAN OF COMPROMISE OR ARRANGEMENT
OF ELCANO EXPLORATION INC., ELCANO EXPLORATION LTD. and
ELCANO EXPLORATION PARTNERSHIP**

ATTENDANCE LIST - MEETING OF CREDITORS

DATE: July 2, 2019 TIME: 10:00 am

HELD AT: Bennett Jones LLP
4500, 855 – 2nd Street SW
Calgary, AB T2P 4K7

Hardie & Kelly Inc. - Monitor

Marc Kelly _____

Elcano Group

Richard Fulton _____
Kelsey Meyer _____
Richard Fulton _____
Greg Jones _____
